

STATE OF INDIANA) IN THE HAMILTON CIRCUIT / SUPERIOR COURT

COUNTY OF HAMILTON) CAUSE NO. 29C01-1104 PL 3695

STEPHEN RECTOR)
CLERK)
HAMILTON COUNTY COURTS)

Plaintiff)

v.)

TOWN OF FISHERS)

Defendant)

COMPLAINT FOR DAMAGES
AND REQUEST FOR JURY TRIAL

Plaintiff Stephen Rector, by counsel and as his Complaint for Damages against
Defendant, states as follows:

PARTIES, VENUE AND GENERAL FACTS

1. Plaintiff Stephen Rector is a resident of Hamilton County in the State of Indiana.
2. Defendant Town of Fishers is a municipal entity located in Hamilton County in the State of Indiana.
3. Plaintiff was employed with Defendant, originally as an inspector with the Fire Department, and then an inspector with the Department of Development Building Division until he was terminated by Defendant.
4. Plaintiff filed with the Equal Employment Opportunity Commission a charge of discrimination alleging discrimination under the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101 et seq.
5. The Equal Employment Opportunity Commission issued to Plaintiff its right to sue letter dated January 26, 2011.

COUNT I

6. Plaintiff incorporates by reference paragraphs one through five above.
7. Plaintiff suffers from a disability as defined by the Americans with Disabilities Act, specifically Cervical Radiculitis and Congenital Spondylolisthesis.
8. Plaintiff advised Defendant of his disability and requested Defendant provide to Plaintiff a reasonable accommodation.
9. Defendant refused or failed to provide to Plaintiff the requested reasonable accommodation.
10. With the reasonable accommodation requested by Plaintiff, Plaintiff would be able to perform his job with Defendant.
11. As a result of Defendant violating Plaintiff's rights as protected under the Americans with Disabilities Act, Plaintiff sustained damages including, but not limited to, lost pay and benefits, mental and emotional anguish, attorney fees and costs.

WHEREFORE, Plaintiff prays for judgment against Defendant, for reinstatement, an award of damages sufficient to compensate Plaintiff for his injuries, for an award of Plaintiff's attorney fees and costs incurred herein, and for all other appropriate relief.

COUNT II

12. Plaintiff incorporates by reference paragraphs one through five above.
13. Plaintiff applied to Defendant, or advised Defendant that he wished to apply, for a position with the Fire Department as an inspector, which was a position he had previously held with Defendant.
14. Defendant denied Plaintiff the position.

15. Plaintiff's disability, or his disability as perceived by Defendant, was a motivating factor in denying the position to Plaintiff.

16. Defendant's decision to deny Plaintiff the position was made in violation of the Americans with Disabilities Act of 1990.

17. As a result of Defendant violating Plaintiff's rights as protected under the Americans with Disabilities Act, Plaintiff sustained damages including, but not limited to, lost pay and benefits, mental and emotional anguish, attorney fees and costs.

WHEREFORE, Plaintiff prays for judgment against Defendant, for reinstatement, an award of damages sufficient to compensate Plaintiff for his injuries, for an award of Plaintiff's attorney fees and costs incurred herein, and for all other appropriate relief.

COUNT III

18. Plaintiff incorporates by reference paragraphs one through five above.

19. While employed with Defendant Plaintiff was eligible for leave under the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601, *et seq.*

20. Defendant is an employer as defined in the FMLA.

20. Plaintiff gave notice to Defendant of his intention leave under the FMLA.

21. Plaintiff was denied the benefits to which he was entitled under the FMLA.

22. As a result, Plaintiff has sustained damages including, but not limited to, lost pay and benefits, attorney fees and costs

WHEREFORE, Plaintiff prays for judgment against Defendant, for reinstatement, an award of damages sufficient to compensate Plaintiff for his injuries, for an award of Plaintiff's attorney fees and costs incurred herein, and for all other appropriate relief.

COUNT IV

23. Plaintiff incorporates by reference paragraphs one through five above.

24. During his employment with Defendant, Plaintiff was eligible for leave under the FMLA.

25. Plaintiff suffered an adverse employment action including, but not limited to, being terminated from employment and / or being denied a position to which he had applied or wished to apply.

26. Plaintiff:

A. Was treated less favorably than employees who had not requested or were in need of leave under the FMLA; or

B. Suffered an adverse employment decision because of his request or need for leave under the FMLA; or

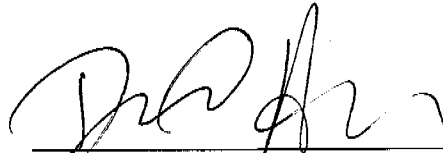
C. Suffered an adverse employment decision because of his perceived need for leave under the FMLA.

27. As a result, Plaintiff has sustained damages including, but not limited to, lost pay and benefits, attorney fees and costs

WHEREFORE, Plaintiff prays for judgment against Defendant, for reinstatement, an award of damages sufficient to compensate Plaintiff for his injuries, for an award of Plaintiff's attorney fees and costs incurred herein, and for all other appropriate relief.

Respectfully submitted,

McCLURE McCLURE DAVIS & HENN

A handwritten signature in dark ink, appearing to read 'David M. Henn', is written over a horizontal line.

David M. Henn, 18002-49

REQUEST FOR JURY TRIAL

Plaintiff, by counsel, requests that this matter be tried by jury.

Respectfully submitted,

McCLURE McCLURE DAVIS & HENN



David M. Henn, 18002-49

McCLURE McCLURE DAVIS & HENN
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THE DOCUMENT TO WHICH THIS CERTIFICATE
IS ATTACHED IS A FULL, TRUE AND COR-
RECT COPY OF THE ORIGINAL ON FILE AND
OF RECORD IN MY OFFICE

DATED 4/19/11 BOOK 2 PAGE 35
5-16-11 Peggy Beaver
DATE OF CERTIFICATION PEGGY BEAVER
CLERK OF COURTS
COUNTY COURTS